

CHAPTER 3

GUIDELINE APPLICATION: A REVIEW OF THE CASE FILES

OVERVIEW

In this chapter, the findings from a case file review of recently established or modified child support orders are analyzed. In the first section, the methodology used to conduct the case file review is summarized. (Appendix A provides a more detailed description of the methodology.) The next section analyzes the results of the review. It considers the following subtopics:

- Deviations from the guideline and reasons for deviating from the guideline;
- Application of permissible adjustments within the guideline calculation (for example, hardship deduction, add-on for child care);
- Gender and income of the parent obligated to pay support (the obligor) and the parent to receive support (the obligee);
- Presumption and imputation of income;
- Method used to obtain order (stipulation, default, or contested);
- Use of attorneys; and
- Number of children subject to order and order amounts.

METHODOLOGY

The case file review consisted of a random sample of established or modified orders filed in calendar year 1999.⁴ This included orders established or modified by the child support enforcement program through the local district attorney's office (DA orders) and orders established or modified outside the district attorney's office (non-DA orders).⁵

⁴ The date of filing was used rather than the date that the order was entered to conform with the file organization used by the clerks of the courts, which numbers files sequentially by the filing date.

⁵ The 1999 time period for the review only covers orders filed prior to the creation of the California Department of Child Support IV-D services. Before January 1, 2000, district attorney's offices operated child support services in all of California's 58 counties. Title IV-D of the Social Security Act provides federal matching funds to states to establish paternity orders, establish and enforce child support orders, and collect child support payments. Barring good cause, public assistance recipients are required to cooperate with the IV-D program. These services are also available to individuals who are not public assistance recipients.

Conducted in October and November 2000, the case file review was limited to orders subject to the California child support guideline. The review excluded interstate cases, which are not subject to the guideline. It also excluded cases in which an order had not yet been established and orders where the child support was included as part of a larger family support order and could not be separated from the larger order. The research design of the case file review mimics that of the case file review conducted for the *Review of Statewide Uniform Child Support Guideline 1998*. Descriptions of the sampling algorithm, data collection tool, and other sampling and data collection details can be found in Appendix A.

Both this review and the 1998 review (which examined support orders established or modified between July 1, 1995, and June 30, 1996) included orders established and modified by district attorney's offices under Welfare and Institutions Code section 11350.1 (now Fam. Code, § 17404), as well as orders not established and modified by district attorney's offices. Because there are no current data about the distribution of DA and non-DA orders, cases for the sample were selected and stratified by county assuming a 50-50 split between DA and non-DA orders. The earlier case file review also assumed a 50-50 split, based on data available at that time but not updated for this study. For future California reviews, the actual distribution of orders should be available from new sources. For example, data from the newly created California Family Support Registry could eventually be used to better estimate the split between DA and non-DA orders.⁶ Information from the registry could not be used for this study because not all counties were reporting to it when this study was conducted.

Sampled Counties

This case file review targeted the same 11 counties for sampling that were subject to the 1998 review. Those counties were selected because they represent a cross section of sociodemographic factors that reflect underlying family conditions in California. These factors included the county's population, regional density (urban, suburban, or rural), geographic location, relative wealth, and total number of child support cases. Future reviews should revisit the county selection based on more recent information from the 2000 census data (for example, population, household incomes) and child support enforcement data (that is, total caseload, percent of cases under order) from the state's automated system. The data were not available for the current study but will be available by the time of the next quadrennial review.

⁶ The Personal Responsibility and Work Opportunity Act (PRWORA) of 1996 requires all states to maintain a State Case Registry (SCR) on all IV-D cases and non-IV-D orders established or modified in their respective state. In turn, the information is submitted to the Federal Office of Child Support Enforcement to construct a national registry.

The last case file review targeted a random sample of over 3,000 orders and obtained complete file information from 2,987 orders. For this study, a random sample of 1,000 cases was targeted—one-third the sample of the earlier study—which is more than adequate to detect significant differences between the findings of the two case file reviews. Sufficient information was obtained from 991 orders for the current sample. In Exhibit 3-1, the number of orders examined for both reviews by county is displayed. For most counties, the current study sample is about one-third that of the last sample.⁷

Exhibit 3-1 County's Contribution to Sample				
County	Previous Sample		Current Study Sample	
	Number of Orders Examined	Percent of Total	Number of Orders Examined	Percent of Total
Alameda	190	6.4%	66	6.7%
Amador	8	0.3%	0	0.0%
Fresno	468	15.7%	153	15.4%
Los Angeles	835	27.9%	303	30.6%
San Diego	453	15.2%	150	15.1%
San Luis Obispo	60	2.0%	20	2.0%
Santa Clara	369	12.3%	108	10.9%
Siskiyou	55	1.8%	18	1.8%
Solano	133	4.5%	44	4.4%
Tehama	26	0.9%	0	0.0%
Tulare	390	13.0%	129	13.0%
TOTAL	2,987	100.0%	991	100.0%

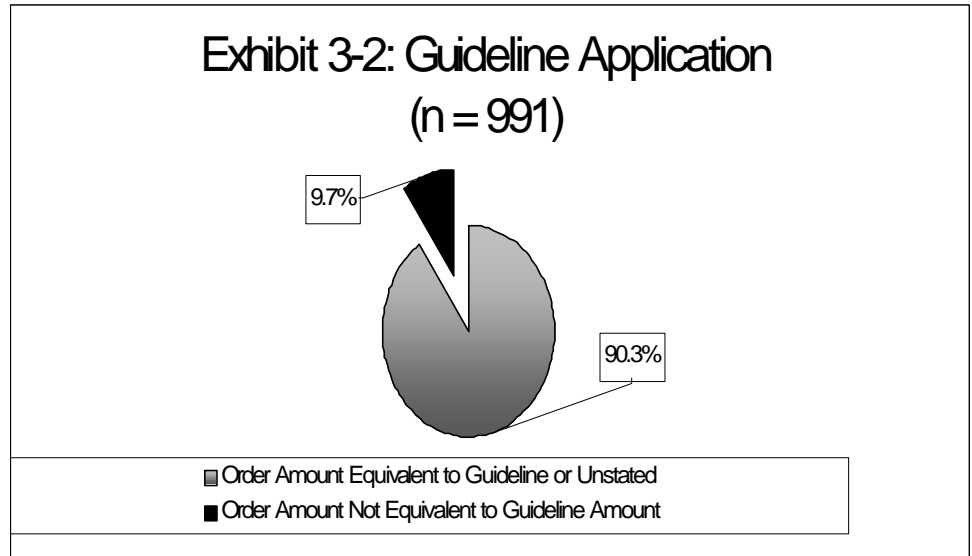
⁷ Small differences between each county's contribution to the previous total and its contribution to the current total result from (1) excluding Amador and Tehama Counties from the current study sample because clerk of the court staff were not available during the study period, (2) falling 15 cases short of the targeted sample size in Santa Clara County due to difficulties obtaining files while the office was being remodeled, and (3) oversampling Los Angeles County to account for its numerous offices. Sending project staff to Amador and Tehama Counties to collect the data was considered, but the expenses seemed excessive given the small number of cases being reviewed from those counties: 3 cases in Amador County and 7 cases in Tehama County.

FINDINGS FROM THE CASE FILE REVIEW

Deviations

Exhibit 3-2 shows that a deviation is noted in 9.7 percent of the reviewed cases. The comparable proportion in the last review is 9.9 percent. Among the remaining 90.3 percent of the reviewed cases, the order amount is equivalent to the guideline amount or

the guideline amount is unstated. It is presumed that if the guideline amount is unstated, it is in compliance with Family Code section 4065 or the correct child support amount is ordered as set forth in the guideline pursuant to Family Code section 4057.



A national study examining case files in 11 states conducted in 1995 found that child support guidelines were deviated from in 17 percent of the orders.⁸ A similar case file review recently conducted in Arizona for its quadrennial review found a deviation rate of 16 percent.⁹ Other recent studies in Iowa and Colorado indicated lower rates, but the reviews in those states were limited to IV-D cases and to what was reported on automated systems. The deviation rate in Colorado is 3 percent.¹⁰ The deviation rate in Iowa is 1.2 percent.¹¹

⁸ CSR, Incorporated with American Bar Association, *Evaluation of Child Support Guidelines: Volume 1: Findings and Conclusions*, Report to the Federal Office of Child Support Enforcement, Washington, D.C. (March 1996).

⁹ Jane Venohr, *Arizona Child Support Guidelines: Findings From a Case File Review*, Report to State of Arizona Supreme Court, Administrative Office of the Courts, Phoenix, Arizona (October 1999).

¹⁰ Colorado Division of Child Support Enforcement, *Issue Paper: Guideline Deviation*, Paper for the Colorado Child Support Guidelines Review Commission (November 16, 2000).

¹¹ Iowa Bureau of Collections, *Guideline Deviation Comparisons: Judicial Districts*, Child Support Recovery Unit, Des Moines, Iowa (July 1999).

In California, the deviation rate was found to vary between DA orders and non-DA orders. As shown in Exhibit 3-3, the deviation rate among DA orders is 7.5 percent, whereas the deviation rate is 12 percent among non-DA orders. The current deviation rate for DA orders (7.5 percent) is considerably higher than the comparable rate from the 1998 study (1.8 percent). Conversely, the current deviation rate for non-DA orders (12 percent) is somewhat lower than the comparable previous rate (18.5 percent).

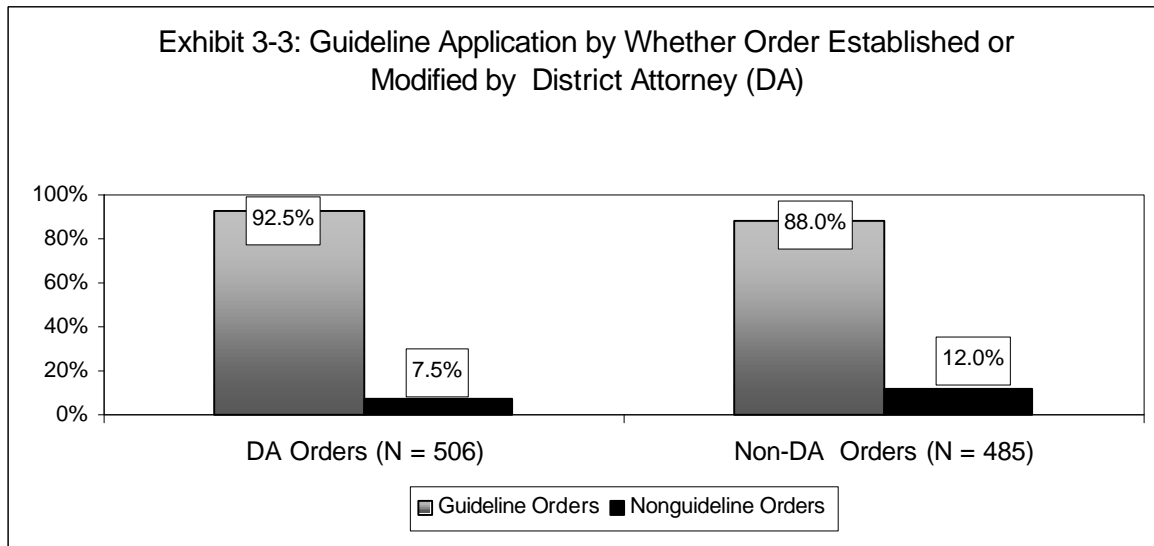
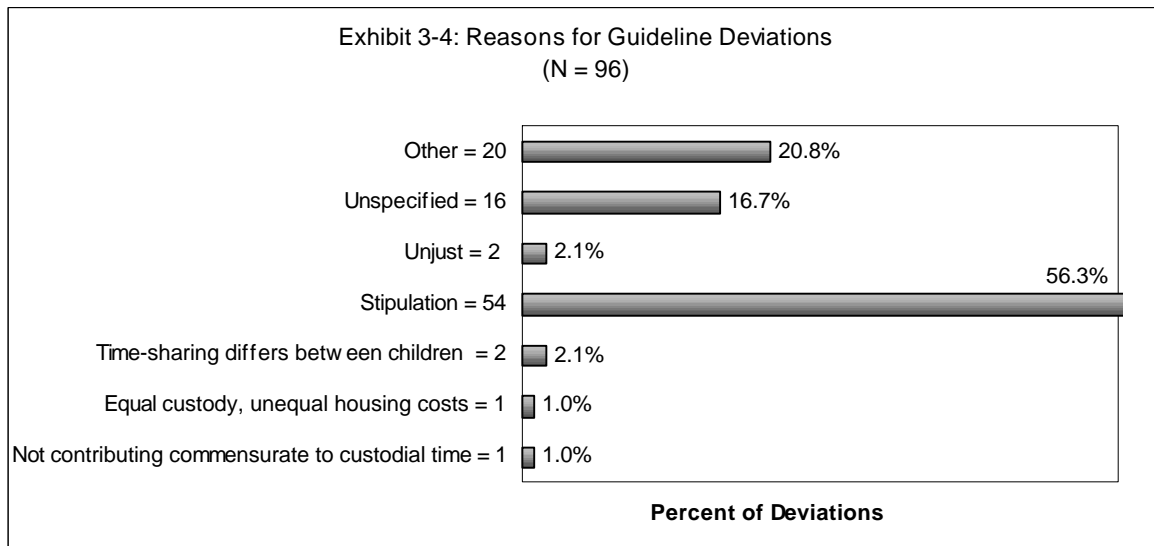


Exhibit 3-4 shows reasons for deviation. Over half (56.3 percent) of the orders with deviations involve a stipulation. Family Code section 4057 specifies that a deviation is permissible if one or more of the following factors exists.

- The parties have stipulated to a different amount.
- The sale of the family residence is deferred, and the rental value of the residence of the children exceeds the mortgage payments, homeowner's insurance, and property tax of the family residence.
- The obligor has extraordinarily high income and the formula results in amounts that exceed the child's needs.
- One of the parties is not contributing to the children's needs at a level commensurate with the party's shared parenting time.
- Application of the formula would be unjust or inappropriate due to:
 - ✓ Different shared parenting time arrangements for different children;
 - ✓ Almost equal shared parenting time, but one parent spends a disproportionate share of his or her income on housing relative to the other parent; or
 - ✓ Children's medical or other special needs.

Aside from stipulation of the parties, none of the other reasons listed above contributes to more than 5 percent of the deviations where the reason was stated. A

fair number of the orders with deviations, 16.7 percent, do not specify a reason. “Other” reasons, which are given for 20.8 percent of the orders with deviations, vary. For example, one reason states that the obligor just turned 18 years of age and very recently started working. Another reason, given in two of the cases with deviations, is incarceration of the obligor.



In 19.8 percent of the cases where a deviation from the guideline is noted, the support amount is reserved for determination at a later date. However, not all reserved orders are considered deviations in the case file. In all, 195 reserved orders are included in the case file review (19.7 percent of the cases reviewed). This is somewhat more than in the last case file review (14.7 percent). Although not captured on the data collection forms, the data reviewers noted several different circumstances in which an order is reserved. Among DA cases, many of the reserved orders include a medical support order, so the applicant may have been seeking medical assistance only, rather than a cash grant through CalWORKS. Among some non-DA cases, the support order is reserved but specifications of shared parenting time are ordered. In addition, there are some unusual circumstances. For example, in one case, the obligor suffers from mental illness and has been institutionalized several times due to her illness.

Direction and Amount of the Deviations

The direction of the deviation could be determined in 54 percent of the cases. Among those, 67 percent were downward deviations and 33 percent were upward deviations. The amount of the deviation averaged 48 percent and 51 percent of the guideline amount in downward and upward deviations, respectively.

Application of Permissible Adjustments Within the Guideline

Hardship Deductions

A deduction from the parent's income for financial hardship is permissible under the guideline (Fam. Code, § 4070). The following circumstances evidencing hardship are specified in the guideline:

- Extraordinary health expenses for which the parent is financially responsible and uninsured catastrophic losses; and
- The minimum basic living expenses of either parent's additional dependents (natural and adopted children) who reside with that parent (Fam. Code, § 4071).

Hardship deductions were noted for only 27 parents: 15 fathers and 12 mothers. This represents only 2.5 percent of the files that were reviewed and is less than the comparable proportion (6.8 percent) from the 1998 case file review.¹² The proportion estimated for this study may be underestimated because a hardship deduction is only discernible if a printout from an automated guideline calculation is available in the case file or if the deduction is specifically noted in the order. Not all files have printouts of the automated guideline calculation, however, and even fewer files report the reason for the hardship deduction in the order. (The reason is not provided on the printout.)

Additional Dependents and Spousal Support

Another adjustment is permissible under Family Code section 4059(e) for additional dependents who the parent is responsible for supporting but who are not living in that parent's home. The adjustment also applies to any court-ordered spousal support that is paid. This deduction was noted for 2.4 percent of the fathers and less than 1 percent of the mothers in the sample that was reviewed. For reasons identical to that of the hardship deduction, these proportions may be underestimated because they are only detectable if a guideline printout is attached to the case file or the deduction is specifically mentioned in the order.

Low-Income Adjustment

Family Code section 4055(b)(7) permits a low-income adjustment if the obligor's net income is below \$1,000 per month. Excluding orders where the obligor's income is not known, 13 percent of the obligors in the reviewed cases were eligible for the adjustment. However, a low-income adjustment was applied in only 6.2 percent of

¹² In two cases, both the mother and the father received a hardship deduction.

those cases. As is the situation with other permissible adjustments, the proportion of cases with a low-income adjustment may have been underestimated because it is only apparent in the case file if there is a printout of the automated guideline calculation or if the adjustment is mentioned in the order.

Additional Support

Support in addition to the amount determined by the guideline formula is to be added for the following factors (Fam. Code, § 4062):

- Employment-related child-care expenses;
- Reasonable uninsured health-care costs for the children; and
- Costs related to the educational needs or other special needs of the children.

Exhibit 3-5 displays the frequency of additional support by reason and by which parent owes the additional support. For example, employment-related child-care expenses are ordered to:

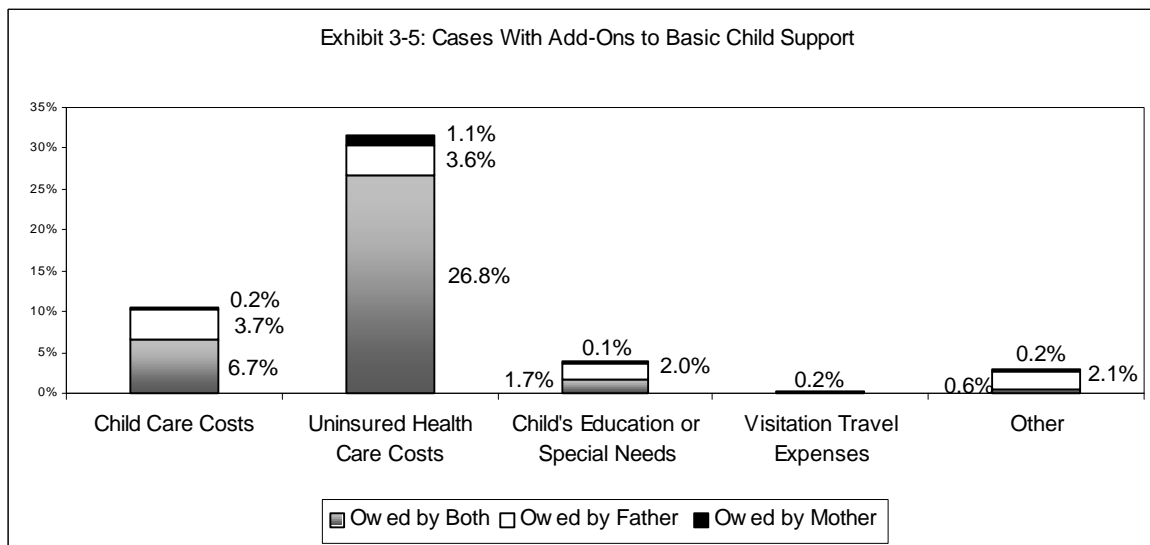
- Both parents in 6.7 percent of the cases reviewed (each parent is responsible for half);
- 3.7 percent of the fathers; and
- 0.2 percent of the mothers.

In sum, 10.6 percent of the reviewed orders cover employment-related child-care costs. The comparable proportion from the last review is 11.2 percent.

In Exhibit 3-5, additional support for the following is also displayed.

- *Uninsured medical expenses.* Almost a third (31.5 percent) of the orders cover insured medical expenses. The comparable proportion in the last review is 35.2 percent.
- *Education or special needs.* A small proportion (3.8 percent) of the orders cover education and special needs. These categories were separated in the last review, but the total was 8.7 percent of reviewed cases, which is higher than the current proportion. The lower amount may be partially explained by the inclusion of an “other” category for this review.
- *Visitation travel expenses.* Few orders in this review (0.2 percent of cases) or in the last review (0.9 percent of cases) included adjustments for visitation travel expenses.
- *Other expenses.* 2.9 percent of the reviewed orders cover other expenses, such as sports or music lessons.

Most of the additional support is divided equally between the parents.



Gender and Income of the Parents

Which parent is the obligor in California is a function of relative income between the parents and shared parenting time. The California guideline formula may result in the parent with the higher income being the obligor even if that parent is the primary custodian of the children. Conversely, the parent with the lower income could be the obligor even if he or she has a smaller proportion of shared-

parenting time. In short, who is the obligor under the California guideline formula cannot be predicted based on which parent is the higher earner alone, nor can it be predicted solely on which parent has the higher proportion of shared parenting time. Both factors must be considered in determining which parent is the obligor.

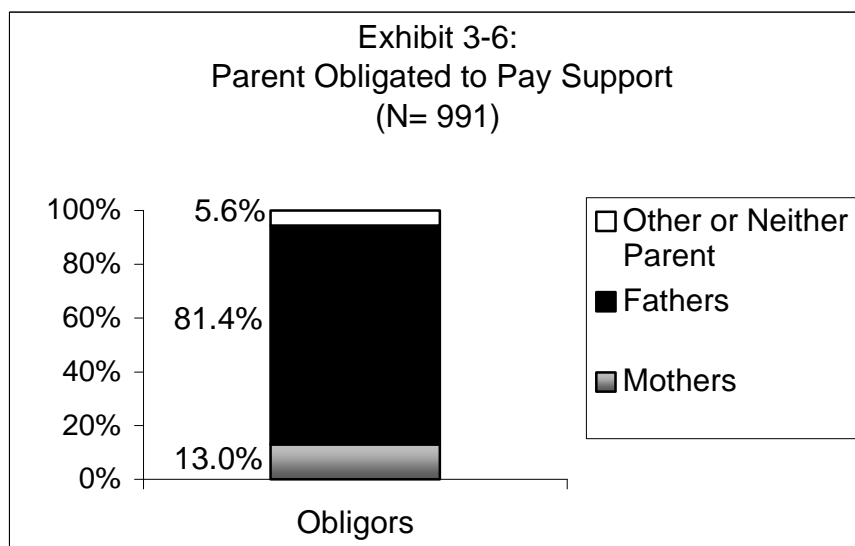


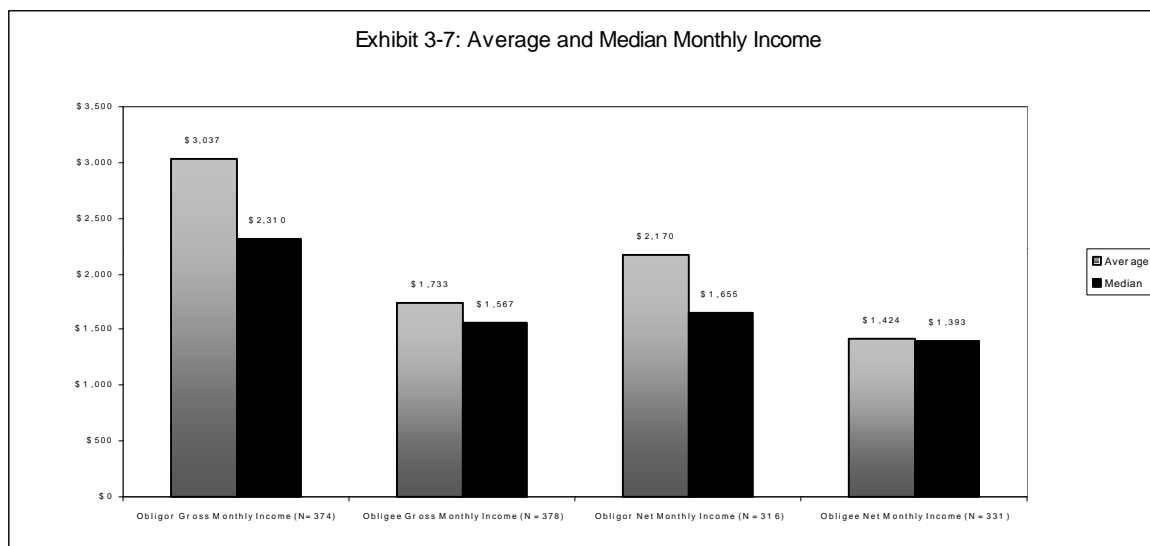
Exhibit 3-6 shows that in most cases (81.4 percent) the fathers are the obligors. The mothers are the obligors in 13 percent of the reviewed orders, and neither parent is specified as the obligor in 5.6 percent of the reviewed orders. Most of the orders in this last group are reserved or set at \$0. Yet, there are a few unusual circumstances. For example, in one case, the parents stipulated to an agreement that each would

track his or her child-rearing expenditures separately and then reimburse one another if the expenditures were unequal.

Income

Income information is available for 39.9 percent of the obligors and 40 percent of the obligees. (As discussed in greater detail later, in most of the orders where income information is missing, the order is determined through a stipulated agreement or default. Parents may agree to an order without providing income information to the court.) For somewhat smaller proportions of obligors and obligees (29.8 percent and 31.6 percent, respectively), income information is available in both gross and net terms.

As evident in Exhibit 3-7, gross monthly incomes average \$3,037 and \$1,733 for obligors and obligees, respectively. Net monthly incomes average \$2,170 and \$1,424 for obligors and obligees, respectively. Imputed and assumed incomes are not considered in these averages. Exhibit 3-7 also displays the median obligor monthly income; that is, the income level at which 50 percent of the obligors have incomes below that level and 50 percent have incomes above that level. Median amounts are also displayed for obligees. Median obligor income is \$2,310 per month gross and \$1,655 per month net. The median obligee income amounts are \$1,566 per month gross and \$1,393 per month net.



In Exhibit 3-8, the parents' income is examined further. It only considers the income ranges for those cases where income information is available for both parents. This amounts to less than a third of all the cases we reviewed. As a result, the total

columns and rows for obligor and obligee income ranges do not include cases where income information is only available for one parent.¹³

Exhibit 3-8 shows that both parents have gross incomes less than \$1,000 per month in 6.2 percent of the cases where income information is available from both parents. For net incomes less than \$1,000 per month, the comparable proportion is 8.3 percent.

In general, a wide range of income disparities between the parents, particularly for gross income, is displayed in Exhibit 3-8. There are only three possible income combinations that comprise more than 10 percent of the cases where gross income information is available for both parents:

- 10.7 percent of the cases involve obligees with gross incomes of \$1,001–\$2,000 per month and obligors with gross incomes less than \$1,000 per month;
- 12.7 percent of the cases involve obligees with gross incomes of \$1,001–\$2,000 per month and obligors with gross incomes of \$1,001–\$2,000 per month; and
- 10.0 percent of the cases involve obligees with gross incomes of \$2,001–\$3,000 per month and obligors with gross incomes of \$1,001–\$2,000 per month.

The pattern among net incomes is somewhat similar with one notable exception: almost a quarter (22.3 percent) of the cases where both parents' incomes are known involve cases where the obligor's net income is \$1,001–\$2,000 per month and the obligee's net income is \$1,001–\$2,000 per month.

Although not shown in Exhibit 3-8, obligee gross income as a proportion of obligor gross income averages 54.2 percent. The comparable proportion in net terms is 65.6 percent. It is likely that the higher proportion in net terms results from the different tax consequences of the parents.

¹³ In fact, obligor income tends to be lower in cases where income information is available for both parents than when it is only available for the obligor. The converse is true among obligees; that is, obligee incomes tend to be higher in cases where income information is available for both parents than when it is only available for the obligee.

Exhibit 3-8 Monthly Income Ranges (gross income available for both parents in 290 cases) (net income available for both parents in 242 cases)						
		Obligor Gross Income				Total (Obligees)
		Less than \$1,000	\$1,001-\$2,000	\$2,001-\$3,000	\$3,001 or more	
Obligee Gross Income	Less than \$1,000	6.2%	2.1%	1.4%	1.4%	11.0%
	\$1,001-\$2,000	10.7%	12.7%	4.8%	2.1%	30.3%
	\$2,001-\$3,000	5.2%	10.0%	5.9%	3.4%	24.5%
	\$3,001 or more	7.9%	7.2%	9.3%	9.7%	34.1%
Total (Obligors)		30.0%	32.1%	21.4%	16.6%	100.0%
		Obligor Net Income				Total (Obligees)
		Less than \$1,000	\$1,001-\$2,000	\$2,001-\$3,000	\$3,001 or more	
Obligee Net Income	Less than \$1,000	8.3%	5.8%	2.9%	1.2%	25.4%
	\$1,001-\$2,000	12.4%	22.3%	5.0%	2.5%	39.1%
	\$2,001-\$3,000	5.4%	12.8%	5.0%	1.7%	22.7%
	\$3,001 or more	4.5%	4.1%	2.9%	3.3%	12.7%
Total (Obligors)		30.6%	45.0%	15.7%	8.7%	100.0%

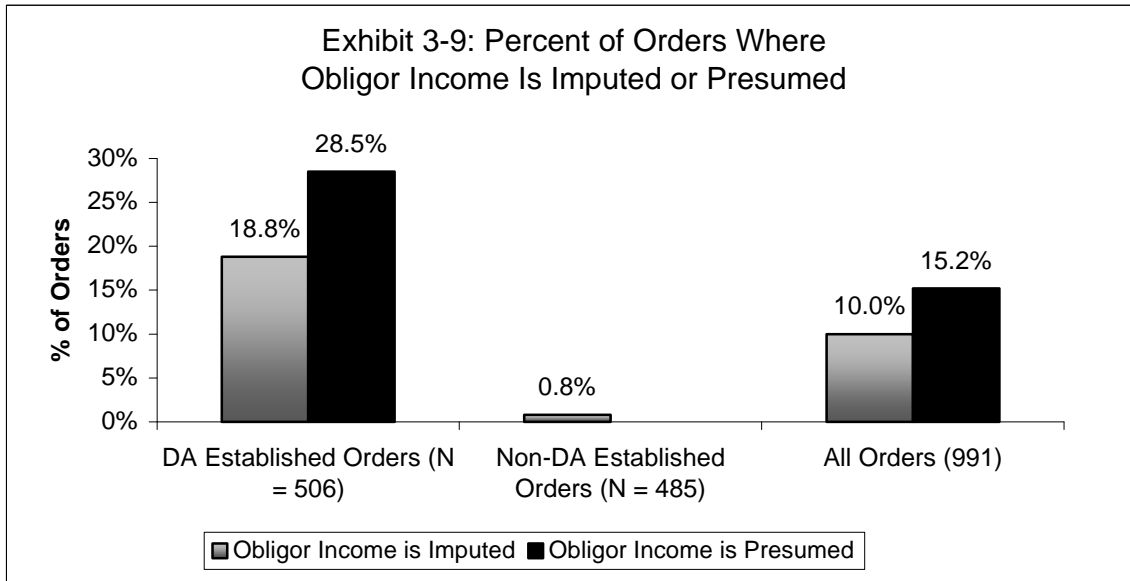
Imputed and Presumed Income

The California child support guideline allows the court, at its discretion, to consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interest of the children (Fam. Code, § 4058(b)). Historically, courts considered earning capacity (instead of actual income) in cases in which it was demonstrated that the obligor was deliberately avoiding his or her support obligation by refusing to get a job or by depressing his or her income. However, the guideline simply states that the use of the earning capacity standard must be "consistent with the best interests of the child," and does not otherwise specify or limit the circumstances under which earning capacity may be used. So long as the obligor has a measurable earning capacity and the current ability and opportunity to earn, the court may use its discretion in determining whether income should be *imputed* to an unemployed or underemployed parent.

If the support amount is being established by a local child support agency under Welfare and Institutions Code section 11475.1(c) and the obligor's income or income history is unknown, income shall be *presumed* to be an amount that results in a court order equal to the minimum basic standard of adequate care (Fam. Code, § 17400(d)(2)).¹⁴

¹⁴ Welfare and Institutions Code section 11452 contains the definition of minimum basic standard of adequate care, which states in part: "The standards are determined on the basis of the schedule set forth in this section, as adjusted for the cost-of-living increases or decreases pursuant to [Welfare and Institutions Code] § 11453, which schedule is designed to ensure: (A) Safe, healthful housing. (B) Minimum clothing for health and decency. (C) Low-cost adequate food budget meeting recommended

As shown in Exhibit 3-9, obligor income is *imputed* in 10 percent and *presumed* in 15.2 percent of all orders that were examined. As can be deduced from Exhibit 3-9, most income imputations and presumptions are made in cases where the child support order is established or modified by the district attorney's office. In fact, income is imputed in 18.8 percent of all DA orders and it is presumed in 28.5 percent of all DA orders. Combined income is imputed or presumed in 47.3 percent of all DA orders. When income is imputed to the obligor, it is typically imputed at minimum wage.



Obligee income is imputed infrequently: 6.9 percent of the obligees have income imputed to them. The proportion is higher among DA cases (10.5 percent) than it is among non-DA cases (3.3 percent). In a few cases, obligee income is imputed when the obligor provided income information and initiated the child support order. In these cases, obligee income is imputed at minimum wage. No other patterns as to when obligee income is imputed are noted.

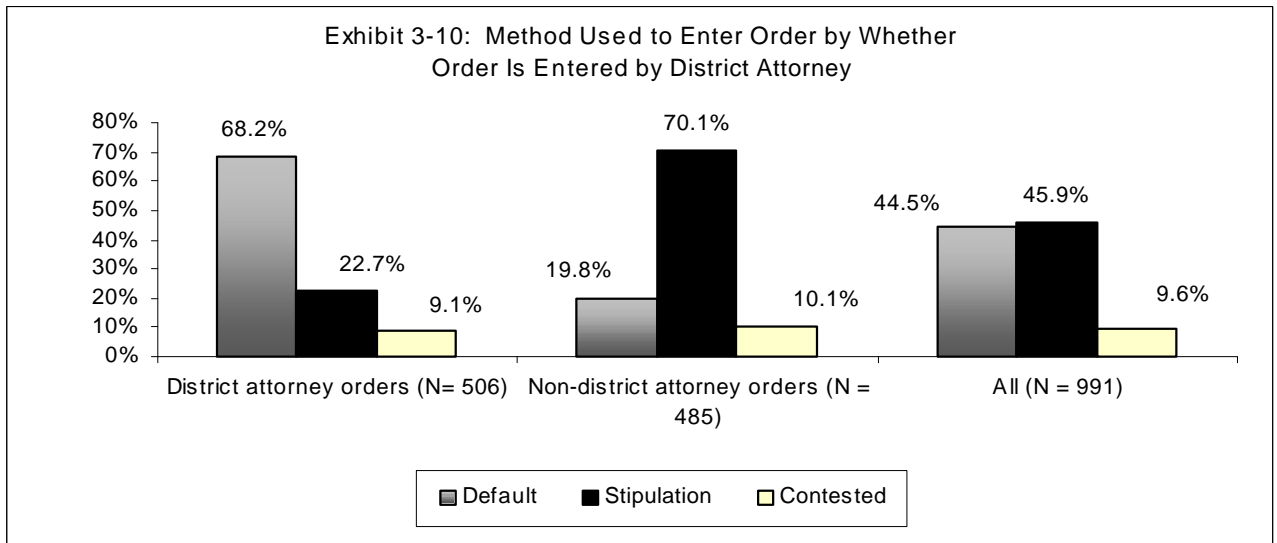
How Was the Order Established?

Child support orders may be modified or established through three methods:

- Stipulated agreement between the parties;
- A default order may be entered, provided notification of due process is given; or
- The order may be contested and resolved by a court of law.

dietary allowances of the National Research Council. (D) Utilities. (E) Other items including household operations, education and incidentals, recreation, personal needs, and insurance. (F) Allowance for essential medical, dental, or other remedial care to the extent not otherwise provided at public expense.”

As shown in Exhibit 3-10, almost half (44.5 percent) of the orders are entered through default; about another half (45.9 percent) are entered as stipulated agreements; and the remaining 9.6 percent are contested and heard in court. The comparable



proportions from the last review are 51.9 percent default, 39 percent stipulations, and 9.1 percent contested.

As evident in Exhibit 3-10, the method used to enter the order varies significantly by whether it is a DA or non-DA order. The majority of district attorney's office orders (68.2 percent) are entered through default, whereas the majority of orders established outside the district attorney's office (70.1 percent) are stipulations. Yet, the use of default orders has decreased somewhat among DA orders since the last review (74.7 percent of the DA orders are default orders in the last review compared to 68.2 percent in this review). More DA orders are contested in this review (4.3 percent in the last review compared to 9.1 percent in this review).

More non-DA orders are entered through stipulation in this review than the last review (70.1 percent in this review compared to 57.7 percent in the last review). Fewer non-DA orders are entered through default (19.8 percent in this review and 28.1 percent in the last review). It is unclear what the exact cause of this change is, but one notable difference between the two periods is the introduction of child support commissioners and family law facilitators as mandated in 1996 by Assembly Bill 1058 (Speier). A recent evaluation of the new child support commission system found that it has improved families' access to the child support process and has reduced conflict between the parents by better educating them on the child support process.¹⁵ In turn, this may have led to more stipulated agreements.

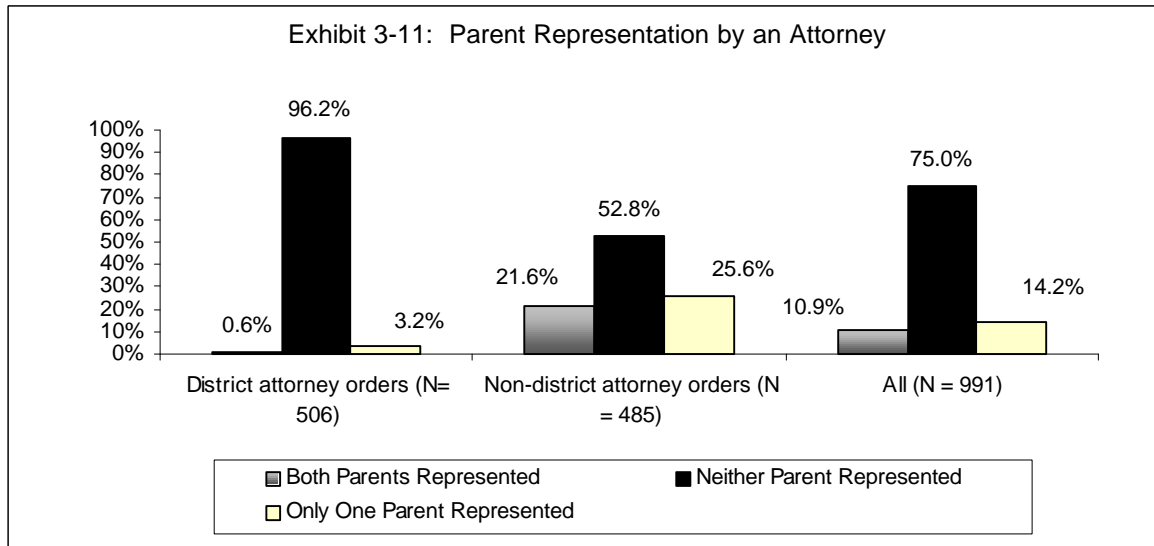
¹⁵ Judicial Council of California, Administrative Office of the Courts, *California's Child Support Commissioner System: An Evaluation of the First Two Years of the Program* (May 2000).

Use of Attorneys

This analysis also captured information about whether parents are represented by attorneys in their child support issues. For clarification, it must be noted that the data capture attorney representation for the financial support issue only, not for other family law issues such as custody. For further clarification, it also must be noted that district attorneys do not represent the custodial parent (or the noncustodial parent) in establishing an order.

Exhibit 3-11 shows that in the majority of cases (75 percent) both parents are unrepresented by attorneys. This is more than what was noted in the last review (both parents were unrepresented in 63.4 percent of the previously reviewed cases). The increase in the proportion of unrepresented parents is not surprising due to the recent implementation of the child support commissioner system, which in part was designed to help unrepresented litigants navigate through the family law court system. The proportions where both parents are unrepresented have increased for both DA and non-DA orders. Both parents are unrepresented in almost all (96.2 percent) of DA orders in this review; the comparable proportion in the last review is 79.2 percent. The proportion of non-DA cases where both parents are unrepresented has increased from 46.8 percent to 52.8 percent.

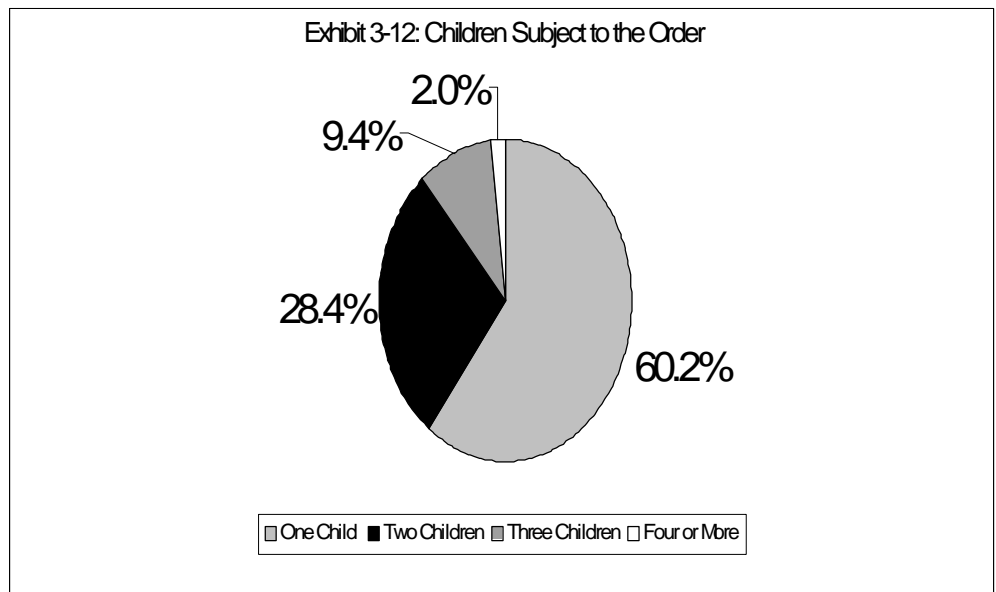
Attorney representation appears to have no bearing on whether the guideline is followed. Both parents are unrepresented in most (75.3 percent) of the orders that follow the guideline as well as those (77.1 percent) that did not follow the guideline. Both parents are represented in 10.9 percent of the orders that follow the guideline and in 12 percent of the orders that did not follow the guideline. Only one parent is represented in 13.9 percent of the orders that follow the guideline and in 10.8 percent of the orders that do not follow the guideline.



Number of Children

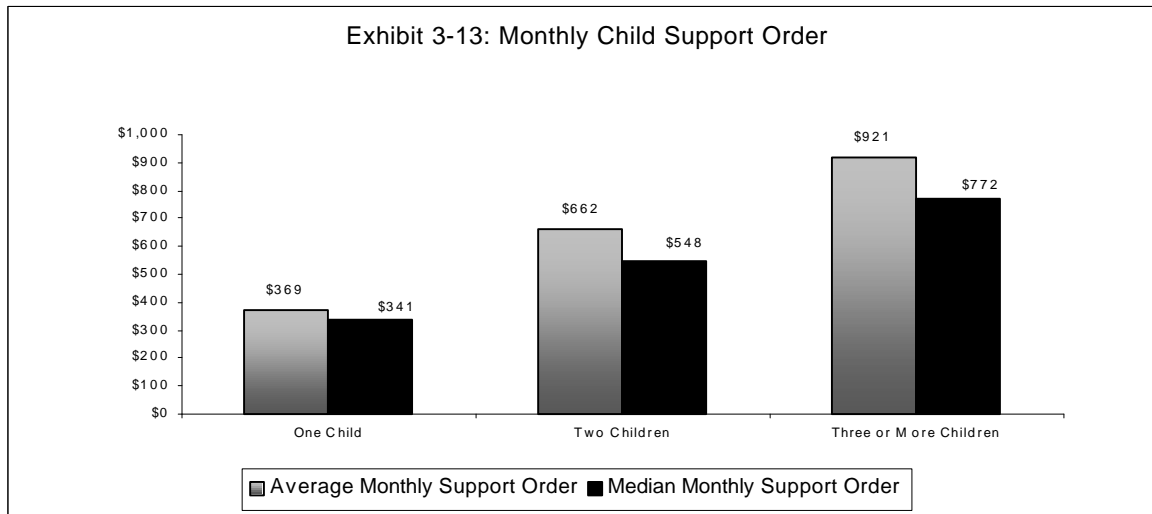
The number of children subject to the child support order in this review is very similar to that of the last review. For example, 60.2 percent of the currently reviewed orders concern one child, whereas 60.1 percent of the previously reviewed orders concern one child. Similarly, 28.4 percent of currently

reviewed orders concern two children, whereas 27.7 percent of the previously reviewed orders concern two children. The number of children subject to the order in the current review is shown in Exhibit 3-12.



Amount of the Child Support Order

In Exhibit 3-13, the average and median order amounts for one, two, and three or more children are displayed. Monthly order amounts average \$369 for one child, \$662 for two children, and \$921 for three or more children. Median order amounts represent the point at which half of the orders are more and half of the orders are less. For one child, the median order differs little from the average order amount. However, the situations are not similar for two and three or more children. In these situations, median order amounts are less than the averages. This suggests that some high order amounts are dragging the average up.



The amounts of the orders average 22.7 percent of obligor net income for one child, 35.5 percent of obligor net income for two children, and 45.3 percent of obligor net income for three children.

LIMITATIONS OF THE DATA AND ANALYSIS

The case file data contain several limitations, most of which were also present in the last review. The major limitation is seemingly incomplete information (for example, income information is frequently missing, and the guideline amount is not always specified). The frequency with which information was missing is also provided in Appendix A. To add to the complexity of this problem, there is no one form required in order establishments and modifications that contains all of the information sought for this study. In other states (such as Vermont and Arizona), all of the information would be available from one form, the guideline worksheet that is required in every case file. In California, however, the guideline amount is usually calculated from automated software. As a result, information was obtained from multiple forms (for example, income statements, order, summons, and judgments), yet some forms (for

example, income statements) were not always provided to the courts so they did not exist in the case file.

Only written records were examined. Some of the missing information may be due to written records containing less information than may be available in the full court transcripts. Also, as pointed out in the last review, information is more likely to be missing or incomplete in default and stipulated orders. Default orders are more likely to have missing income information because the obligor is not present. Stipulated agreements also were less likely to have income information or specify the guideline amount. The case file reviewers encountered numerous stipulated agreements with missing information, in spite of the fact that Family Code section 4056(a)(1) requires the court to state in writing or on the record the amount of support that would have been ordered under the guideline if the support amount differs from the guideline. Nevertheless, the files did include signed declarations of the parties indicating compliance with Family Code section 4065 (shown in Exhibit 3-14).

Exhibit 3-14
Family Code section 4065.

- (a) Unless prohibited by applicable federal law, the parties may stipulate to a child support amount subject to approval of the court. However, the court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:
- (1) They are fully informed of their rights concerning child support.
 - (2) The order is being agreed to without coercion or duress.
 - (3) The agreement is in the best interests of the children involved.
 - (4) The needs of the children will be adequately met by the stipulated amount.
 - (5) The rights to support have not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.

Another limitation of the data shared by this case file review and the last review concerns county-specific data. Neither study was designed to detect statistical differences between counties. Further, information had not been reported at the county level to ensure anonymity.

A couple of limitations unique to the current case file review also exist. First, time-sharing arrangements in the current case file review appear inaccurate. In some of the printouts of automated guideline calculations, the time-sharing percentage would appear as zero for both parents, even though other information in the case file suggests that one parent is the custodian. Information on time sharing could have also been obtained from the parents' financial statements, but the case reviewers

noticed that parents were not always in agreement on the proportion of time spent with each parent. Due to these data problems, time-sharing arrangements were not analyzed as part of this case file review.

Another problem in the current case file review concerns the availability of income information. Availability of income ranges from:

- Both gross and net income being noted in the case file;
- Either gross or net income being noted in the case file, but not both; to
- Neither being noted in the case file.

The variation results from income information coming from three different sources that may or may not list both gross and the net income equivalent. Income may be stated in the order; on the printout of the automated guideline calculation, provided that it is in the file; or on the parent's financial statement, provided that it is in the file. To compensate for not having income information always available in net and gross form, analysis of income is done by both gross and net income.

Finally, it was not always possible to discern whether a parent was currently on CalWORKS or whether the parent was a former CalWORKS or Aid to Families with Dependent Children (AFDC) recipient. Most of the forms available in the case files did not make this distinction.

